United States Department of State

Washington, D.C. 20520

System II Add-on
91312

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November 30, 1983

MEMORANDUM FOR MR. ROBERT C. MCFARLANE
THE WHITE HOUSE

Subject: Controls on U.S. Exports to Libya

Attached is a paper describing a proposal for the expansion of foreign policy export controls on U.S. exports destined to Libya for discussion in the NSC meeting on Friday, December 2. This proposal was developed by an interagency working group in response to Judge Clark's memo of September 9. This proposal has not yet received final endorsement by all agencies represented on the working group.

Corey

Charles Hill
Executive Secretary

Attachment: As stated.

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review of sales of significant oil and gas equipment and technical data to Libya. The Advisory Committee for Export Policy has approved denial of the mooring system export but Commerce has not yet acted on the recommendation for a change in the regulatory policy.

In response to the September 9 request of the NSC, an interagency working group has reviewed a number of commodity areas where remaining U.S. sales to Libya might be viewed as inconsistent with our policy objective of eliminating U.S. actions that directly or indirectly encourage or support Libyan policies of terrorism, subversion, and aggression.

As a result of this review, the group prepared the following proposal as a possible course of action which could be implemented as an additional step to restrict U.S. exports to Libya.

PROPOSAL DESCRIPTION

The current presumption of denial of export licenses to Libya could be extended to include applications for exports worth $1 million or more in specified additional broad categories of U.S. products destined for the development of Libya's strategic infrastructure. Those categories would be: chemical and petroleum equipment, electrical and power generating equipment, general industrial equipment, transportation equipment, electronic and precision instruments and technical data (as defined in the Commodity Control List) destined for Libya's oil and gas sector, industrial sector, transportation sector, hydrological sector and power generation sector. Related technical data (including management services) regardless of value which are to be utilized in the described economic sectors would be presumed to make a significant contribution to the development of Libya's infrastructure and would, therefore, fall within the presumption of denial. Preexisting contracts would be excepted and the existing policy of limiting the extraterritorial effects of Libyan export controls in accord with NSDD 27 would be continued.

DISCUSSION

Under this proposal our licensing policy would be changed from general approval for broad ranges of exports to Libya to general denial of any export which could make a significant contribution to the development of Libya's strategic infrastructure as described above. The exception for preexisting contracts is included in the proposal to accord with NSDD 27. It also takes account of valid business concerns and current Congressional scrutiny in this area. In addition, the existing policy on limiting the extraterritorial effect of these controls would be followed.

This action would be intended as a unilateral U.S. measure. In implementing it, however, we would undertake to explain to our allies and friends why we were adopting further export controls. While we would not expect our allies to volunteer to adopt similar measures, there are indications that other nations might be willing to reexamine some aspects of their military export policies to Libya. In the course of briefing them on our decision, we would seek to elicit their support.

The effect of the proposed change in our licensing policy would be further to reduce the volume of high cost, high visibility exports to Libya. Since expanded controls were implemented in March 1982 licenses valued at $1.5 billion have been approved and licenses valued at $1 billion have been denied. In the commodity categories covered by the proposal, there are currently pending 338 export license applications with a value of $611.4 million. Of these, 36 export license applications with a value of $545.5 million would be subject to a presumption of denial under the proposed action. Export license applications reflect only potential rather than actual sales. Thus, the effect of these sanctions on U.S. business is not necessarily the sum of export licenses denied. On the other hand, the existence of export controls does have a chilling effect on U.S. business endeavors with the affected country and undoubtedly deters firms from applying for licenses in questionable areas. U.S. exports to Libya have dropped from $416 million for January-June 1981 to $170 million for the same period in 1982 and $105 million for the corresponding period in 1983.

Extending our policies of denial would underscore our opposition to Qadhafi's policies. This action would again emphasize to Libya, our European allies, and concerned African friends the willingness of the U.S. to forego economic benefits in order clearly to demonstrate our firm opposition to Libya's foreign adventures. It would also help eliminate inconsistency between our efforts to curb Qadhafi's activities and U.S. industry's support to major projects developing Libya's infrastructure.

On the other hand, while these additional unilateral U.S. restrictions would again serve notice on Qadhafi of the unacceptability of his policies, they are not expected to produce political and economic pressures sufficient to cause any significant change in those policies. The restrictions would of course deprive U.S. businesses of exports. Even after the restrictions are put into effect, U.S. business would still be deeply engaged in Libya. U.S. companies respresented in Libya would continue exploiting and lifting roughly 50% of Libyan crude exports. Approximately 600 U.S. nationals could remain in Libya, despite passport restrictions; a significant number of them are engaged in Libya's petroleum industry. We might therefore continue to be criticized by the French and others for commercial activities which were allegedy inconsistent with our policies toward Libya. U.S. participation in the Libyan oil industry and the presence of U.S. citizens could be halted only by the declaration of a national emergency under the International Economic Emergency Powers Act (IEEPA), a course of action rejected by the Administration in its general policy review in the spring of 1982. A total ban on exports to Libya would also require invocation of IEEPA.

If it is decided that these steps should be implemented in response to Libyan activities, the Departments of State and Commerce will draft and promulgate amendments to the Export Administration Regulations which will implement the proposal.

Prior to the promulgation of any new regulations, consultations would be held with Congress, U.S. businessmen and our allies. Overall Congressional reaction to a tightening of restrictions is expected to be mildly favorable. Individual members, however, can be expected to press hard for favorable consideration of cases involving companies in their districts. They would claim that our policy would be largely ineffective in bringing about changes in Libyan policy if not supported by other industrialized nations. In explaining the need for further restrictions on the Hill, we would stress that the political and symbolic importance of maintaining a strong and consistent policy toward Libyan agression far outweighs the economic drawbacks.

In briefing concerned businessmen, we would face an unsympathetic audience. Nevertheless, we would point out that the steps under consideration were being taken in response to Libyan actions, and were warranted given the nature of these actions. In briefing our allies we would explain our policy and our intention of limiting the extraterritorial effect of these controls.

U.S. Oil and Gas Export Controls

USSR

Issue

Should the United States now impose national security controls, unilaterally, on oil and gas equipment exports to the Soviet Union; or should we continue existing foreign policy controls pending the outcome of U.S. efforts with the allies for multilateral controls. (C)

A number of licenses are pending for oil and gas equipment exports to the USSR (roughly $125 million), most for oil exploration and production equipment, such as deep submersible pumps, offshore oil drilling rigs, etc. (C)

Background

The Assistant Secretary-level Advisory Comittee on Export Policy (ACEP) recommended the application of national security controls for oil and gas equipment exports to the USSR, at a meeting on September 13. (S)

The historical evolution of oil and gas export controls toward the Soviet Union began in 1978 under the Carter Administration when validated licenses were first imposed for foreign policy reasons on oil and gas production and exploration equipment. Human rights violations, stemming from the Scharansky trail were the basis for this regulatory change. The Administration response to the invasion of Afghanistan in December 1979 was a change in licensing policy from a presumption of approval to a revocation of outstanding licenses and a suspension of licensing oil and gas equipment. This policy was later revised and oil and gas items were reviewed with a presumption of approval. (U)

President Reagan in late December 1981, in response to the declaration of martial law in Poland expanded foreign policy controls against the oil and gas sector in the USSR, e.g. Siberia-West European gas pipeline. Licensing controls were expanded to cover oil and gas refining and transmission equipment in addition to production and exploration equipment. Licensing of all products was suspended. Our allies opposed this action. (C)

In November 1982, the President removed controls against the USSR for oil and gas transmission and refining equipment so that controls reverted to the status of those in existence prior to December 1981. In return for this action, our European allies and friends agreed to undertake a number of multilateral cooperative studies designed to explore opportunities for increased Western economic and energy security. We also obtained agreement to consider new controls on oil and gas equipment and technology within COCOM. (U)

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In early 1983, the allies agreed with us that COCOM would establish an Ad Hoc Group to identify and consider (emphasis added) the case for controlling other high technology items (equipment, materials, and technical data), including those with oil and gas applications, not now controlled. (C)

This COCOM group became known as the Ad Hoc Group on Other High Technologies, including Oil and Gas. The United States originally proposed a list of seventeen oil and gas items for control in April 1983. A High Level Meeting (Under Secretary level) of COCOM representatives in late April reaffirmed their government's commitment to the work of the Ad Hoc Group and agreed regarding oil and gas items that, "the primary objective is to identify in order to correct deficiencies and loopholes in the international lists." (C)

The U.S. proposal was subsequently refined and now covers twenty-one items deemed to meet the COCOM strategic criteria. An index of the oil and gas items included in the U.S. COCOM proposal for control is attached. This list was tabled at a meeting in July but we agreed internationally not to discuss it until January 1984. (C)

Bilateral discussions on the U.S. proposal were held in late October with most of our COCOM partners. These bilaterals were prepatory to the fourth meeting (January 9-12) of the Ad Hoc Group. Most countries agreed with the U.S. view that the work of the Ad Hoc Group is nearly complete and that the Group should refer the U.S. proposal for multilateral oil and gas equipment and technology controls to the full Committee for review and consideration for inclusion on the embargo list. The European nations visited were unanimous that before they agreed to such controls the items must meet the COCOM strategic criteria. (C)

The Europeans do not yet seem completely persuaded by the United States proposals and are, therefore, unlikely to agree to control all the items. Although items such as oil and gas equipment were multilaterally controlled in the early years of COCOM, the organization's strategic criteria is now interpreted to apply to items with only significant and direct applications in military systems. (C)

Arguments For National Security Controls (S)

- o Demonstrates to allies in concrete way strong U.S. belief that such equipment is, in fact, strategic within COCOM meaning, reinforcing U.S. arguments against Soviet oil and gas development.

- o Insures consistency between U.S. COCOM proposal for national security control on oil and gas equipment and U.S. export control policy.

- o Anticipates future large-scale Soviet development efforts (e.g., Barents Sea, etc.) which will require massive amounts of Western equipment and technology.

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- o Sends a clear signal of United States' opposition to assisting the Soviet Union in developing its energy resources with Western equipment and technology.

- o Is a potential brake on long-term Soviet hard currency earnings.

Arguments for Foreign Policy Controls (S)

- o To shift basis of controls is a major policy change not technical adjustment in regulations. Individual licenses for exploration and production equipment can now be denied.

- o Adoption of national security controls would send the wrong signal to our allies. It would raise new fears among our allies over our Soviet policy and would also harm our COCOM negotiating position.

- o Administration retains maximum flexibility if COCOM nations do not agree to U.S. proposals or if foreign policy situation changes.

- o Unilateral restrictions, that [illegible] American suppliers out of the competition, would give others an incentive to avoid or delay agreement in order to retain the market for themselves.

- o Retention of foreign policy controls rather than national security controls skirts major Congressional debate at same time Administration's Congressional efforts must focus on new export control authority, including President's foreign policy authority.

- o Widespread foreign availability in COCOM for the items proposed for control would yield little real results if our COCOM allies do not agree to national security controls.

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November 30, 1983

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OIL AND GAS EQUIPMENT AND TECHNOLOGY

PROPOSED FOR COCOM CONTROL

IL-1131	Pumps, deep submersible
IL-1416	Geophysical - seismic survey vessels
IL-1501	Navigation equipment
IL-1510	Acoustic/ultrasonic underwater equipment
IL-1595	Gravity meters
IL-1100 NI	Corrosion resistant o/g equipment
IL-1100 NI	High pressure/temperature o/g equipment
IL-1100 NI	Deep well drilling rigs
IL-1500 NI	Magneto-telluric systems
IL-1500 NI	Well logging equipment
IL-1500 NI	Mud logging equipment
Watch List	Oil and gas equipment
Tech Data	Feasibility studies
Tech Data Integration	Magneto telluric systems
Tech Data Integration	Survey vessels
Tech Data Integration	Submersible vehicles
Tech Data Integration	Offshore posit & navigation systems
Tech Data Design, Dev. Prod.	Deep well rigs
Tech Data Design, Dev. Prod.	Hi-pressure temperature corrosive o/g systems
Tech Data Design, Dev. Prod.	Deep submersible pumps
Tech Data Design, Dev. Prod.	Hi-pressure temp. o/g systems
Tech Data Design, Dev. Prod.	Corrosion resistant oil and gas systems

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THE WHITE HOUSE

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FROM ROBERT KIMMITT, NSC SECRETARIAT

(NAME) (EXTENSION) (ROOM NUMBER)

MESSAGE DESCRIPTION NSC MEETING ON EXPORT CONTROLS: LIBYA AND USSR

TO (AGENCY)	DELIVER TO:		DEPT/ROOM NO.	EXTENSION
	Mr. Donald P. Gregg Assistant to the Vice President for National Security Affairs		Dr. Alton Keel Associate Director for National Security and International Affairs	
B	Mr. Charles Hill Executive Secretary Department of State	A -	[redacted] 25X1 Executive Secretary Central Intelligence Agency	
K	Mr. David Pickford Executive Secretary Department of the Treasury	B -	Ms. Jackie Tillman Executive Assistant to the United States Representative to the United Nations	
D	Col. John H. Stanford Executive Secretary Department of Defense	C -	Mr. Dennis Whitfield Executive Assistant to the United States Trade Representative	
L -	Ms. Helen Robbins Executive Assistant to the Secretary Department of Commerce // DELIVER ASAP TO MR. ROBBINS. ///	D -	Brig. General George A. Joulwan Executive Assistant to the Chairman Joint Chiefs of Staff The Pentagon	

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